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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,749	04/29/2002	Martin Bergenwall	915.401	4186

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EXAMINER

CHEA, PHILIP J

ART UNIT	PAPER NUMBER
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2153

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/030,749	Applicant(s) BERGENWALL ET AL.	
	Examiner Philip J. Chea	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This Office Action is in response to an After Final Amendment filed February 12, 2007. Claims 1-2,4-21 are currently pending, of which claims 16-21 are new. Any rejection not set forth below has been overcome by the current Amendment. The previous Final rejection has been withdrawn in response to the Hartman reference not being prior art. However, a new Final rejection is presented below in reference to the Amendments made to the claims filed 7/10/06.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 21 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The specification does not limit what a transmission apparatus can be (i.e. radio frequency, portable storage media, signal bearing media, communications lines, wireless, etc.). Therefore, it is possible that non-statutory categories of invention may be included in the transmission apparatus, such as signal bearing media and communication lines. Please see MPEP 2106.01.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2,4-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Agarwal et al. (6,477,669), herein referred to as Agarwal.

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1,15,17,18,21, Agarwal discloses communicating a message over a data path, as claimed, comprising:

forming a plurality of individual data segments together representing the message, each data segment having control data (see column 6, lines 30-32, where control data is considered error correction bits);

estimating a quality of the data path (see column 5, line 65 – column 6, line 6, where bit error detection provides for estimating the link quality);

determining, based on the estimated quality, an interval between data segments that are to be communicated over the data path in a first segment format that includes a first amount of control data, the interval decreasing when the estimated quality decreases (see column 7, lines 37-42, and 5, line 65 – column 6, line 6, where if the quality of the link is high, fewer bits can be allocated for data correction and inversely when the quality is low, more bits from each data packet can be allocated for data correction i.e. the interval between data correction packets decreases see also column 8, lines 10-17 and column 7, lines 43-50);

for each data segment, if the determined interval has passed, selecting the first segment format, and otherwise selecting a second segment format, the second segment format including a second amount of control data, the second amount being less than the first amount (see column 5, line 65 – column 6, line 6, where a second segment format is considered reduced bits allocated for data correction); and

transferring the data segments over the data path (i.e. the packet is sent).

As per claims 2,16, Agarwal further discloses that the interval is a number of data segments between zero and infinity (see column 5, line 65 – column 6, line 6).

As per claim 4, Agarwal further discloses that the data segments are packets (see column 6, lines 30-40).

As per claim 5, Agarwal further discloses that the control data is comprised in a header and/or a trailer of each packet (see Fig. 2, where control data can be at the trailer).

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As per claim 6, Agarwal further discloses that the first format is a format having a non-compressed header and the second format is a format having a compressed header (see column 6, lines 30-40).

As per claim 7, Agarwal further discloses that the quality of the data path is estimated by means of one or more of the following measures; signal to interference ratio, bit error rate, power loss over the data path, required transmission power over the data path, delay over the data path (see column 8, lines 2-4).

As per claim 8, Agarwal further discloses a data path that includes a portion over which no bit error correction protocol is applied (see column 8, lines column 6, lines 63-67, where a value of 0 implies no error corrections).

As per claim 9, Agarwal further discloses that the data path includes a portion constituted by a radio link (see Fig. 1A [25]).

As per claim 10, Agarwal further discloses that the data segments are formed and transferred according to one or more of the following protocols; TCP, IP, UDP, RTP (see column 3, lines 59-65).

As per claim 11, Agarwal further discloses that each packet includes message data representing at least part of the message (see Fig. 2).

As per claim 12, Agarwal further discloses that the available segment formats do not differ in their ability to comprise message data (see column 6, lines 30-40).

As per claim 13, Agarwal further discloses that the control data of each segment includes first control data for permitting control of the transmission and/or reception of the segment and second control data for permitting detection and/or correction of errors in the first control data (see column 7, lines 37-42).

As per claim 14, Agarwal further discloses including greater amounts of first control data include greater amounts of second control data (see column 7, lines 37-42).

As per claim 19, Agarwal further discloses that the transmission apparatus is a mobile terminal (see column 5, lines 32-40).

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As per claim 20, Agarwal further discloses that the transmission apparatus is a base station (see Fig. 1a).

Response to Arguments

3. Applicant's arguments with respect to claims 1-2,4-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Chea whose telephone number is 571-272-3951. The examiner can normally be reached on M-F 6:30-4:00 (1st Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Philip J Chea
Examiner
Art Unit 2153

PJC 3/16/07

A handwritten signature in black ink, appearing to read 'W. Chea', with a large, stylized flourish at the end.